

Attorney Docket: BS01371  
U.S. Patent Application No. 10/016,988 Examiner Koenig Art Unit 2623  
Response to April 25, 2007 Final Office Action

### **REMARKS**

In response to the final Office Action dated April 25, 2007, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and on the following remarks.

Claims 1-28 are pending in this application.

### **Official Notice**

In the April 25, 2007 final action, Examiner Koenig mentions traversal of "Official Notice." Examiner Koenig says the "applicant has not traversed the examiner's assertion of official notice." However, the previous office action (mailed August 18, 2006) contained no assertion of "official notice." The Assignee will thus assume that this examiner's assertion is an error. If Examiner Koenig wishes to continue with this assertion, Examiner Koenig is respectfully requested to specifically point out the assertion of official notice.

### **Objection to Claims 24 and 25**

The Office objected to dependent claims 24 and 25. These claims, however, have been amended and no longer resemble their previous version. Examiner Koenig is respectfully requested to re-examine these claims in their current form.

### **Rejection of Claims under § 103 (a) over *Grauch* and *Batten***

Claims 1-2, 4-7, 9-11, 13, 15-16, 18-21, 23-25, and 27 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over WO 98/31114 to Grauch, *et al.* in view of WO 01/47156 to Batten, *et al.*

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These claims, however, cannot be obvious. These claims recite, or incorporate, features that are not taught or suggested by the combined teaching of *Grauch* with *Batten*. Independent claim 1, for example, recites “classifying the subscriber in a user classification when the subscriber's viewing time for a programming genre exceeds a predetermined level” (emphasis added). Support for such features may be found in the as-filed application at paragraph [0045]. Support may also be found at paragraphs [0043] and [0046] through [0049]. Independent claim 1 is reproduced below, and independent claim 15 recites similar features.

[01] A method, comprising:

collecting subscriber data about a subscriber's use of media programming,  
comprising

- i) identifying a command of interest from the subscriber, and
- ii) forming an event record that comprises the command of interest and a time associated with the command of interest;

merging the event record with data describing the media programming to form event timelines which describe the media programming selected by the subscriber over a period of time;

matching data from the event timelines with at least one relevant criteria describing which subscribers are desirable for receiving a the selected advertisement; and

when data from the event timelines matches the at least one relevant criteria, then identifying the subscriber as a desirable subscriber to receive an advertisement;

classifying the subscriber in a user classification when the subscriber's viewing time for a programming genre exceeds a predetermined level;

communicating the media programming to the user; and

when a match is defined between the user classification and the advertisement, then inserting the advertisement in the media programming.

*Grauch* and *Batten* cannot obviate all these features. *Grauch* discloses a system that combines event records and content data to form event timelines. See WO 98/31114 to *Grauch, et al.* at page 3, line 20 through page 4, line 7. *Batten* discloses a merge processor that classifies a user in a demographic group and then delivers an advertisement targeted to that demographic group. See WO 01/47156 to *Batten, et al.* at page 5, lines 1-7. Still, though, the combined

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teaching of *Grauch* and *Batten* fails to teach or suggest at least “classifying the subscriber in a user classification when the subscriber’s viewing time for a programming genre exceeds a predetermined level” (emphasis added). Because *Grauch* and *Batten* are silent to at least these features, one of ordinary skill in the art would not think that independent claims 1 and 15 are obvious.

The dependent claims also recite distinguishing features. Dependent claims 2 and 16, for example, recite “*wherein the programming genre is advertisements, and further comprising classifying the subscriber when a predetermined number of advertisements is exceeded.*” Support for such features may be found in the as-filed application at paragraph [0053]. Dependent claims 3 and 17 recite “*collecting shopping information and classifying the subscriber when a defined amount of product is purchased.*” Support for such features may be found in the as-filed application at paragraph [0053]. Dependent claims 4 and 20 recite “*comparing media advertisements viewed to shopping information describing brands of products purchased, and when an advertised product is purchased, then classifying the subscriber as a purchaser of a brand of product.*” Support for such features may be found in the as-filed application at paragraph [0052]. Dependent claims 6 and 22 recite “*collecting information describing web pages viewed by the subscriber, collecting information describing purchases made online, and collecting information describing topics of online searches.*” Support for such features may be found in the as-filed application at paragraph [0052]. Dependent claims 7 and 24 recite “*classifying the subscriber in the user classification comprises comparing the subscriber’s viewing time to a classification parameter.*” Support for such features may be found in the as-filed application at paragraphs [0046] through [0050]. Dependent claims 8 and 25 recite “*comparing the subscriber’s viewing time to a plurality of classification parameters, each classification parameter describing a requirement for a different classification.*” Support for such features may be found in the as-filed application at paragraph [0046]. Because *Grauch* and *Batten* are silent to at least these features, one of ordinary skill in the art would not think that dependent claims 2-14 and 16-28 are obvious.

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Claims 1-2, 4-7, 9-11, 13, 15-16, 18-21, 23-25, and 27, then, cannot be obvious. These claims recite, or incorporate, many features that are not taught or suggested by the combined teaching of *Grauch* with *Batten*. Because *Grauch* and *Batten* are silent to these features, one of ordinary skill in the art would not think that these claims are obvious. Examiner Koenig is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims under § 103 (a) over *Grauch* and *Batten* and *Williams***

Claims 3, 8, 17, and 22 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over *Grauch* in view of *Batten* and further in view of U.S. Patent 5,945,988 to Williams, *et al.* These claims, however, cannot be obvious. Claims 3, 8, 17, and 22, respectively, depend from independent claims 1 and 15. These claims, then, incorporate the same distinguishing features and recite additional features. As the above paragraphs explained, *Grauch* and *Batten* both fail to teach or suggest at least “classifying the subscriber in a user classification when the subscriber’s viewing time for a programming genre exceeds a predetermined level” (emphasis added). The patent to Williams, *et al.* does not cure this deficiency. The patent to Williams, *et al.* discusses an entertainment system that automatically detects the current user. The combined teaching of *Grauch*, *Batten*, and *Williams* still fails to teach or suggest the distinguishing features recited in independent claims 1 and 15 and incorporated into claims 3, 8, 17, and 22. Claims 3, 8, 17, and 22, then, cannot be obvious, so Examiner Koenig is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims under § 103 (a) over *Grauch* and *Batten* and *Alexander***

Claims 14 and 28 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over *Grauch* in view of *Batten* and further in view of U.S. Patent 6,177,931 to Alexander, *et al.* These claims, however, cannot be obvious. Claims 14 and 28, respectively, depend from independent claims 1 and 15. These claims, then, incorporate the same distinguishing features and recite additional features. As the above paragraphs explained, *Grauch* and *Batten* both fail to teach or suggest at least “classifying the subscriber in a user classification when the

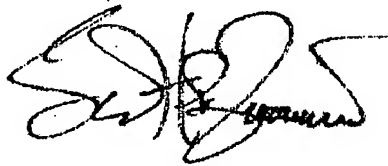
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subscriber's viewing time for a programming genre exceeds a predetermined level" (emphasis added). The patent to Alexander, *et al.* does not cure this deficiency. The patent to Alexander, *et al.* discusses an electronic programming guide having advertising information. The combined teaching of *Grauch*, *Batten*, and *Alexander* still fails to teach or suggest the distinguishing features recited in independent claims 1 and 15 and incorporated into claims 14 and 28. Claims 14 and 28, then, cannot be obvious, so Examiner Koenig is respectfully requested to remove the § 103 (a) rejection of these claims.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,



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